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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,474	06/23/2000	Joseph Herbst	108339-09036	1343

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EXAMINER

SHAH, SAUMIL R

ART UNIT	PAPER NUMBER
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2186

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/602,474

Applicant(s)

HERBST, JOSEPH

Examiner

Saumil Shah

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The previous objections to the specification have been withdrawn due to the correction of the informalities by the amendment filed on 01/28/2004.

### ***Claim Objections***

2. The previous objections to claim 6 have been withdrawn due to the correction of the informalities by the amendment filed on 01/28/2004.

### ***Claim Rejections - 35 USC § 112***

3. The previous 35 USC 112 rejections to claims 3, 4, 7, 12-20 have been withdrawn due to the correction of the informalities by the amendment filed on 01/28/2004.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 1, lines 15-17 it is unclear how the adjusting steps would take place when a release of a released memory address occurs in a same clock cycle as a request for an available address. It is improbable that the adjustment of the memory address pointer takes place within the same clock cycle in which the released memory address is passed of as a request for an available memory address.

b. In claim 1, line 16 it is unclear what "passing off" the released memory addresses means. It could mean providing the released memory address *as part of* a request for an available address. Alternatively, it could mean providing the released memory address *in response to* a request. It could also mean giving the released memory address to an available memory address for some function when the release and a request occur in the same clock cycle.

c. Claim 2 is dependent on claim 1.

d. In claim 3, line 6 it is unclear what the term "passing off" means. It could mean providing the released memory address *in place of* an available memory address to the module requesting the next available memory address.

Alternatively, it could mean providing the released memory address *in response to* a request. It could also mean providing the released memory address along with an available memory address to the module requesting the next available memory address.

e. Claim 4 is dependent on claim 3.

f. In claim 6, line 11 it is unclear what the term "passing off" means. It could mean providing the released address *in place of* an available address to the request for an available address. Alternatively, it could mean providing the released address *in response to* a request. It could also mean providing the released address *along with* an available address to the request for an available address.

g. Claim 7 is dependent on claim 6.

h. In claim 8, line 9 it is unclear what the term "pass off" means. It could mean providing the released memory address *in place of* an available memory address upon a request. Alternatively, it could mean providing the released memory address *in response to* a request. It could also mean providing the released memory address *along with* an available memory address upon a request.

i. Claims 9, 10, 11 and 12 are dependent on claim 8.

j. In claim 13, line 9 it is unclear what the term "passes off" means. It could mean providing the released memory address *in place of* an available memory address on a request. Alternatively, it could mean providing the released memory address *in response to* a request. It could also mean providing the released memory address *along with* an available memory address on a request.

k. Claim 13 recites the limitation "a memory" in line 6. The antecedent basis for this limitation in the claim is unclear.

l. Claim 13 recites the limitation "said memory" in line 7. The antecedent basis for this limitation in the claim is unclear. It could be the memory mentioned in line 1 or memory mentioned in line 6.

m. Claim 13 recites the limitation "a request" in line 10. There is insufficient antecedent basis for this limitation in the claim.

n. Claim 13 recites the limitation "said available address" in line 10. There is insufficient antecedent basis for this limitation in the claim. It is suggested to change it to "available memory address" (if that is what was meant).

- o. Claims 14-19 are dependent on claim 13.
- p. In claim 20, lines 15-16 it is unclear what the term "pass off" means. See above.

Further clarification is requested.

#### REMARKS

The Applicant's remarks regarding the first office action have been carefully considered in the amendment filed on 01/28/2004, however the previous rejection has been maintained. As for the applicant's concern over the previous U.S.C 112 rejections, the following is noted:

- ❖ As for claims 1 and 2, the previously cited prior art has been retracted. This is because the amended claim 1 filed on 01/28/2004 made the invention impossible to implement. It is not possible for the reading, writing and adjustment of the pointer take place within the same clock cycle as has been claimed. However, if the applicant meant that the steps were performed in a sequential manner over various cycles, then the rejection on the claim in the previous office action still holds.
- ❖ The term "passing off" and its variations are not common in the art and there are various interpretations of the implied meaning that encompass many diverse fields of endeavor, as has been elaborated upon in the USC 112 rejections above. Thus, there was no prior art search possible for these claims.
- ❖ For claims 3, 6, 8, 13 and 20, there was prior art available based on one interpretation of the term "passing off". Weeks (US Patent No. 6,363,467) discloses "in-situ" realloc in column 8, lines 50-57 where the realloc releases a memory

address as well as requests a memory address in the same step. If there is sufficient memory in the released location, then the same memory address is returned in the next step. This can be done in two consecutive clock cycles depending on the implementation of the realloc instruction. However, the prior art has not been cited, as the meaning of the term "passing off" and its variations was not clear.

It is the belief of the examiner that upon consideration of this assertion, the applicant shall share the examiner's interpretation.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saumil Shah whose telephone number is 703-305-8786. The examiner can normally be reached on 9:00 AM to 5:30 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 703-305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Saumil Shah  
Patent Examiner  
AU: 2186

February 18, 2004

  
BEHZAD JAMES PEIKARI  
PRIMARY EXAMINER